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# Report of the Working Group on the Universal Periodic Review*

# Haiti

**Addendum**

**Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translation services.

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1. The Republic of Haiti thanks the Working Group on the Universal Periodic Review for adopting, on 9 November 2016, at the end of its twenty-sixth session, the report submitted by Haiti for the second cycle of the universal periodic review. It is also grateful to the Working Group for enabling 193 countries to make recommendations with a view to improving the protection and promotion of human rights in Haiti.

2. Haiti acknowledges the importance of the 213 recommendations that were made by Member States during the dialogue. It declared that it supported 175 of those recommendations, noted 33 of them and stated that it would provide a response to the remaining 5 in due course.

3. In view of the need to involve civil society in this process, consultations with civil society were held on 20 December 2016 to gather opinions on the recommendations.

4. In the light of those consultations with civil society and discussions among members of the technical secretariat of the Interministerial Human Rights Committee, Haiti has reclassified its responses as follows: 188 recommendations are accepted and the remaining 25 are noted.

5. Haiti would like to explain its decision to note certain recommendations. In some cases, the recommendation has already been implemented; in other cases, Haiti cannot presently commit to implementing the recommendation for various reasons. Haiti is providing the following information to clarify its decision.

**Recommendation 117.1 (Congo): Accelerate the ratification of all international human rights instruments**

6. The wording of this recommendation is too general, for Haiti cannot be a party to all international human rights instruments. The ratification of some of those instruments requires means of support that are unavailable to the State owing to the country's socioeconomic and cultural situation.

**Recommendations 117.2 (Australia), 117.3 (Montenegro), 117.4 (Rwanda), 117.5 (Namibia): Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (recommendation accepted)**

7. Well before the adoption of the Second Optional Protocol to the International Covenant on Civil and Political Rights in 1989, the death penalty had already been abolished in Haiti for all offences, pursuant to article 20 of the Constitution. Moreover, international instruments rank below the Constitution in the legal hierarchy. Haiti has decided to accept this recommendation, since it reflects the concerns of the Haitian Government.

8. The ratification of this Protocol will enable the State to protect Haitian nationals residing in countries where the death penalty has not been abolished.

**Recommendations 117.7 (United Kingdom of Great Britain and Northern Ireland), 117.14 (Czechia), 117.15 (Uruguay), 117.16 (Cyprus), 117.17 (Germany), 117.18 (Guatemala), 117.19 (Timor-Leste): When elected, the new President should seek early ratification of the Rome Statute of the International Criminal Court**

9. Haiti, in view of its past, recognizes the importance of the Rome Statute as an instrument for combating crime. That is why it signed the Rome Statute on 26 February 1999. Haiti acknowledges that the recommendations made by these countries, such as Timor-Leste, are well-founded.

10. However, Haiti already has a body of law that serves to combat the acts that are defined as crimes against humanity in the Rome Statute. The new Criminal Code, which is being drafted and will shortly be submitted to the parliament, covers genocide, torture and other such crimes. Trials have already taken place in Haiti for crimes against humanity, which are classed as ordinary crimes in the Criminal Code. One example is the trial of the late Jean-Claude Duvalier, the former President of Haiti. Haiti has not deemed it necessary

to ratify the Rome Statute because the crimes concerned by that instrument are covered by its domestic legislation.

**Recommendation 117.20 (Armenia): Ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity**

11. War crimes and crimes against humanity are covered by the Rome Statute. Haiti notes the recommendation of Armenia regarding the non-applicability of statutory limitations to these crimes. However, although Haiti has not yet ratified the Rome Statute, the crimes to which the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity applies are already covered by Haitian criminal law. Moreover, residents of Haiti are subject to the same penalties, which are provided for by criminal law. Haiti has therefore deemed it unnecessary to ratify the Convention in question.

**Recommendations 117.21 (Mongolia) (Panama) (Rwanda), 117.22 (Paraguay): Extend a standing invitation to the human rights special procedures**

12. Haiti has never objected to receiving visits from human rights special procedures mandate holders. It has always welcomed the Independent Expert on the situation of human rights in Haiti. There is no need for a standing invitation.

**Recommendations 117.24 (Croatia), 117.25 (Guatemala): Design and implement a series of measures to combat discriminatory stereotypes, including stereotypes based on gender**

13. Generally speaking, there are no discriminatory stereotypes in Haiti, because the country's population is black. Moreover, there are no ethnic groups in Haiti. The State guarantees religious freedom and recognizes cultural diversity.

**Recommendation 117.26 (Colombia): Take measures to combat norms, practices and stereotypes that cause discrimination and violence based on sexual orientation and gender identity**

14. The preamble to the Constitution guarantees the inalienable and imprescriptible rights to life, liberty and the pursuit of happiness in accordance with the Act of Independence of 1804 and the Universal Declaration of Human Rights of 1948. Haitian law protects all persons from discrimination based on sexual orientation and gender identity in the exercise of their rights and enables all victims of practices and stereotypes that cause discrimination and violence of that kind to bring proceedings before the competent court to assert their rights.

**Recommendation 117.28 (Canada): Provide, as soon as possible, documents to persons of Haitian origin living in the Dominican Republic to regularize their status and thus avoid deportations, in coordination with the International Organization for Migration**

15. This recommendation does not fall solely within the competence of Haiti, for it concerns persons of Haitian descent who were born in the Dominican Republic and whose families have lived there for several generations and who should have been granted nationality on the basis of *jus soli* pursuant to the Dominican Constitution. The Haitian State is nevertheless still striving to provide Haitians residing on Dominican territory with identification documents.

**Recommendations 115.134, 117.29, 117.30 (Botswana, Sierra Leone, Republic of Korea): Raise the minimum age of marriage to 18 for both boys and girls**

16. Under articles 16.2 and 17 of the Constitution, the age of majority is 18 years. Article 17 provides that Haitians aged 18 and over may exercise their civil and political rights, subject to the other conditions established in the Constitution and by law, without distinction on grounds of gender or civil status. Moreover, well before the adoption of the 1987 Constitution, the age of majority had already been established as 18 years by article

16 of the Act of 8 October 1982. At that age, Haitians have the capacity to perform all civil acts.

17. The Act also prohibits civil registrars from marrying persons under the age of 18 without the consent of their parents. Any registrar who violates this law is liable to a penalty, ranging from a fine to a prison sentence.

**Recommendation 117.31 (Germany): End all enforced evictions from displacement camps and establish an official moratorium on mass eviction until all legal and procedural safeguards compliant with international human rights standards are in place**

18. The Government does not encourage or practice mass eviction. As a preventive measure, administrative memorandums have been issued to government commissioners to prevent the implementation of judicial decisions on forced evictions.

**Recommendation 117.33 (Switzerland): Implement policies to guarantee the rights of displaced persons, particularly following natural disasters, as well as of those persons expelled from a third country who risk statelessness**

19. The Government has always taken measures to guarantee the rights of displaced persons following natural disasters. However, for the moment it cannot guarantee the rights of persons expelled from a third country owing to the socioeconomic challenges and overpopulation currently faced by Haiti.

**The Haitian delegation had deferred its response to 5 out of the 213 recommendations so that it could examine them before making a decision. They were discussed during the workshop on 20 December 2016, which brought together civil society and members of the technical secretariat of the Interministerial Human Rights Committee. It was decided that recommendations 116.1, 116.2 and 116.5 (Uruguay) should be accepted and recommendations 116.3 and 116.4 should be noted.**

**Recommendations 116.1 and 116.2 on the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (Uruguay and Japan)**

20. After consultation with civil society, these recommendations have been accepted.

**Recommendation 116.3 (Czechia): Step up efforts to systematically address exploitation of and violence against children, including by introducing and effectively implementing legislation criminalizing the practice of placing children from poor families in domestic service**

21. Haiti has a culture of solidarity. To help alleviate the economic problems that are so widespread, Haitian families take in disadvantaged children, with or without family ties, to improve their daily lives. The State is aware of the situation and provides assistance to poor families through social initiatives, for it is in the children's best interests to be raised by their biological family.

22. The Ministry of Social Affairs and Labour has set up an emergency call centre, through the Social Welfare and Research Institute, where cases of child abuse, child neglect and child trafficking can be reported by calling the free hotlines 133 and 511.

23. However, the State has noted some cases of ill-treatment where no crime, as such, has been committed. Criminalizing the practice of placing children in domestic service could mean that more children end up on the streets, if there is nowhere else for them to go. Many children flourish and are able to help their biological families, thanks to the kindness of the families who take them in.

**Recommendation 116.4 (Congo): Speed up the procedure to adopt the law against the high rate of pregnancy among adolescent girls**

24. Legislation was introduced in 2014 on paternity, maternity and descent; it deals with parental responsibility and non-discrimination against children. This legislation concerns

both women and adolescent girls. The high rate of pregnancy among adolescent girls cannot be reduced simply by adopting a law. The issue must be addressed through awareness campaigns aimed at both parents and adolescents. It would therefore make more sense to review the legislation on paternity, maternity and descent with a view to making it stronger and better suited to the current situation.

**Recommendation 116.5 (Uruguay): Update the memorandum of understanding with the Dominican Republic on repatriation mechanisms in accordance with international standards and norms (recommendation accepted)**

25. This recommendation is in line with the concerns of the Haitian Government.

26. Haiti called for this memorandum of understanding to be revised several years ago, but the Dominican Republic never responded to the request.

27. On 30 May 2015, the then Chancellor of Haiti submitted a draft memorandum of understanding on the repatriation mechanism to the Dominican authorities. In that draft, the Chancellor had recognized the right of the Dominican Republic to enforce its immigration laws and the responsibility of Haiti to receive its nationals, subject to the provisions of the memorandums of understanding and international law.

## Conclusion

28. After consultation with civil society during the workshop on 20 December 2016, the Interministerial Human Rights Committee decided to reclassify the recommendations as follows:

(a) Accepted recommendations

- Three of the deferred recommendations have been accepted: 116.1, 116.2 and 116.5. These recommendations, made by Uruguay and Japan, concern the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (Uruguay and Japan) and the updating of the memorandum of understanding with the Dominican Republic on repatriation mechanisms in accordance with international standards and norms (Uruguay).
- Two of the deferred recommendations have been noted: 116.3 and 116.4.

(b) Noted recommendations

- After consideration, recommendations 117.2, 117.3, 117.4, 117.5, 117.6, 117.8, 117.9, 117.10, 117.11 and 117.12 have been accepted. Recommendation 117.32 has also been accepted.
- Recommendation 115.134, which was initially accepted, has been noted.
- This means that 11 out of 33 noted recommendations have been accepted, giving a total of 25 noted recommendations and 188 accepted recommendations.
- The responses to the recommendations have been reclassified in the light of the civil society consultations and discussions among members of the technical secretariat of the Interministerial Human Rights Committee.
- Overall, 14 noted recommendations have been accepted, bringing the total number of accepted recommendations to 188.